

STATE WATER RESOURCES CONTROL BOARD

P.O. BOX 100, SACRAMENTO, CALIFORNIA 95801

322-4552



In Reply

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DIVISION OF OIL & GAS
SACRAMENTO

Mr. Gary Magnuson
Washington Office - State of California
600 Pennsylvania Avenue, S.E., Suite 201
Washington, D. C. 20003

JOINT STATEMENT ON UNDERGROUND INJECTION CONTROL (UIC) REGULATIONS

Dear Mr. Magnuson:

Enclosed is the joint statement by the California State Water Resources Control Board (SWRCB) and California Division of Oil and Gas regarding the UIC regulations. This statement has been reviewed by Priscilla Grew, Director of the State Department of Conservation and myself.

We assume that Congressman Waxman's subcommittee meeting is still scheduled for August 18, 1980. Since a SWRCB representative will not attend this meeting, would you please present the statement on our behalf?

Sincerely,

Clint Whitney
Executive Director

Enclosure

JOINT STATEMENT BY THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
AND THE
CALIFORNIA DIVISION OF OIL AND GAS
PRESENTED AT CONGRESSMAN WAXMAN'S
SUBCOMMITTEE MEETING, WASHINGTON, D.C.
AUGUST 18, 1980

CONTAMINATION OF UNDERGROUND DRINKING WATER SOURCES THROUGH INJECTION WELLS IS A SERIOUS THREAT IN MANY PARTS OF THE UNITED STATES. THE MAGNITUDE OF THIS THREAT JUSTIFIES ACTIONS SUCH AS THOSE TAKEN BY EPA IN PROMULGATING THE NEW UNDERGROUND INJECTION CONTROL (UIC) RULES AND REGULATIONS UNDER THE SAFE DRINKING WATER ACT. IN THE PAST, SOME STATES DID NOT HAVE THE RESOURCES TO IMPLEMENT AN ADEQUATE PROGRAM TO PROTECT UNDERGROUND DRINKING WATER SUPPLIES. THESE EPA RULES DO PROVIDE AN EXCELLENT FRAMEWORK FOR A SUITABLE UIC PROGRAM NATIONWIDE, PARTICULARLY FOR THOSE STATES WHERE SUCH A PROGRAM DOES NOT ALREADY EXIST.

IN CALIFORNIA, HOWEVER, A VERY EFFECTIVE ONGOING UNDERGROUND INJECTION CONTROL PROGRAM HAS EXISTED FOR MANY YEARS. FOR THIS PROGRAM TO SWITCH OVER TO AN ENTIRELY NEW SET OF REGULATIONS WOULD CAUSE UNDUE CONFUSION AND COSTLY DELAYS. MANY OF THE NEW REQUIREMENTS SUCH AS THE CONSOLIDATED PERMIT REGULATIONS WILL REQUIRE ADDITIONAL UNNECESSARY ACTIONS, CREATE A LARGE UNWIELDY BUREAUCRACY, AND THUS UNNECESSARILY DISRUPT CALIFORNIA'S PROGRAM WHICH IS ALREADY IN EFFECT AND ADEQUATELY ENFORCED.

SINCE 1949, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS HAVE BEEN REGULATING DISPOSAL OF LIQUID AND SOLID HAZARDOUS WASTES TO PREVENT IMPAIRMENT OF SURFACE AND GROUNDWATER QUALITY.

THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD WAS DESIGNATED IN 1978 AS THE LEAD AGENCY FOR ALL PURPOSES RELATED TO RECEIVING AND DISBURSING FEDERAL GRANTS FOR THE DEVELOPMENT AND CONDUCT OF UNDERGROUND INJECTION CONTROL PROGRAMS UNDER PL 93-523.

IN 1972, THE STATE WATER RESOURCES CONTROL BOARD ISSUED REGULATIONS GOVERNING DEEP WELL INJECTION SYSTEMS (EPA'S CLASS I) TO PREVENT HYDROFRACTURE OR BREAK UP OF ROCK FORMATION ABOVE THE INJECTION ZONE. THESE REGULATIONS TO PROTECT GROUNDWATER FROM THIS POTENTIAL CONTAMINATION THREAT WERE THE MOST STRINGENT IN THE NATION.

THESE 1972 REGULATIONS ALSO PROHIBITED THE CONSTRUCTION, MAINTENANCE, OR USE OF ANY WASTE WELL (EPA'S CLASS IV WELL) EXTENDING TO OR INTO A WATER-BEARING STRATUM THAT COULD BE USED AS A DOMESTIC WATER SUPPLY. THESE CALIFORNIA REGULATIONS COVERED BOTH HAZARDOUS AND NONHAZARDOUS WASTES WHICH COULD CONTAMINATE A WATER SUPPLY. THE NEW EPA PROGRAM WILL ALLOW HAZARDOUS WASTE INJECTION INTO UNDERGROUND DRINKING WATER SOURCES TO CONTINUE FOR ANOTHER TWO YEARS (REFERENCE: 40 CFR § 122.36(a)(4) AND § 1422(b)(1) OF THE SAFE DRINKING WATER ACT). THIS IS JUST ONE EXAMPLE OF WHERE CALIFORNIA'S PROGRAM IS MORE STRINGENT AS WELL AS BEING YEARS AHEAD OF THE FEDERAL PROGRAM.

THE CALIFORNIA DIVISION OF OIL AND GAS (CDOG) OF THE DEPARTMENT OF CONSERVATION IS THE STATE REGULATORY AGENCY RESPONSIBLE FOR SUPERVISING ALL ACTIVITIES RELATED TO THE STATE'S OIL, GAS AND GEOTHERMAL OPERATIONS INCLUDING UNDERGROUND INJECTION.

STATE STATUTES SPECIFICALLY MANDATE TO CDOG THE RESPONSIBILITY TO SUPERVISE DRILLING, OPERATION, MAINTENANCE, AND ABANDONMENT OF WELLS TO PREVENT DAMAGE TO UNDERGROUND AND SURFACE WATERS SUITABLE FOR IRRIGATION OR DOMESTIC PURPOSES. WHEN THE PETROLEUM INDUSTRY STARTED INJECTION PROGRAMS IN CALIFORNIA 36 YEARS AGO, THE DIVISION ESTABLISHED COMPREHENSIVE RULES AND OPERATING PROCEDURES TO ENSURE THAT THESE INJECTED FLUIDS WERE CONFINED TO THE INTENDED ZONE OF INJECTION AND WERE SEGREGATED FROM ALL FRESHWATER AQUIFERS. THIS PROGRAM HAS BEEN VERY SUCCESSFUL IN PREVENTING FRESHWATER DEGRADATION. THE DIVISION'S PERMITTING AND MONITORING PROCEDURES HAVE PROVEN TO BE AN EFFECTIVE AND EFFICIENT MEANS OF ASSURING WATER QUALITY PROTECTION.

IN VIEW OF THIS EXISTING SUCCESSFUL PROGRAM, WE ARE OF THE OPINION THAT THE CURRENT CDOG RULES AND REGULATIONS ARE MORE EFFECTIVE IN PROTECTING CALIFORNIA'S FRESH WATERS AND MORE COST EFFECTIVE TO THE PUBLIC IN CALIFORNIA THAN THE PROPOSED EPA PROGRAM. EPA'S PROGRAM DOES NOT REQUIRE ON-SITE WELL TESTING OR OTHER FIELD ACTIVITIES BY STATE INSPECTORS ON A REGULAR BASIS TO SUBSTANTIATE INFORMATION ON PERMIT APPLICATIONS OR SELF-MONITORING REPORTS. IMPLEMENTING EPA'S PROGRAM IN ITS PRESENT FORMAT WOULD ESSENTIALLY EXCHANGE A VIABLE

STATE REGULATORY SYSTEM THAT STRESSES WELL TESTING, FOR AN UNPROVEN PROGRAM THAT CONTAINS A MULTITUDE OF REQUIREMENTS AND PROVISIONS THAT WILL RESULT IN AN ENORMOUS AMOUNT OF PAPERWORK AT THE EXPENSE OF WELL TESTING. THIS IS A WASTEFUL AND IMPRACTICAL APPROACH TO GROUNDWATER PROTECTION.

TO BE SUCCESSFUL, THE REGULATION OF UNDERGROUND INJECTION MUST COME ABOUT THROUGH A VIGOROUS SURVEILLANCE AND ENFORCEMENT PROGRAM. THIS CAN BE DONE BY PLACING PEOPLE IN THE FIELD AND TESTING WELLS. EPA'S PROPOSED PROGRAM DOES NOT PROVIDE FOR THESE FIELD ACTIVITIES BY STATE PERSONNEL. THE NUMEROUS PUBLIC HEARINGS AND DETAILED REQUIREMENTS OF THE PROPOSED EPA PROGRAM COULD SERIOUSLY ENCUMBER THROUGH EXCESSIVE PAPERWORK AN ONGOING EFFECTIVE REGULATORY PROGRAM.

DURING THE PAST FEW YEARS, EPA OFFICIALS AND THEIR CONTRACTORS HAVE MADE SEVERAL ON-SITE REVIEWS OF THE CDOG REGULATORY PROGRAM, AND AFTER THOSE REVIEWS, HAVE ATTESTED TO THE ADEQUACY OF THE CDOG PROGRAM. FOR EXAMPLE, THE CDOG CURRENTLY ISSUES ABOUT 500 CLASS II, III AND V WELL PERMITS A YEAR. THESE PERMITS ARE ALSO REVIEWED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS.

IN CONCLUSION, WE FEEL THAT EPA SHOULD ADOPT AN EQUIVALENCY PROCESS WHEREBY ONGOING STATE PROGRAMS COULD BE SUBSTITUTED FOR THE FEDERAL PROGRAM WHEN THE INTENT OF THE SAFE DRINKING WATER ACT IS MET AND WHERE PAST HISTORY AND CURRENT PRACTICE INDICATE AN EFFECTIVE STATE PROGRAM OF GROUNDWATER PROTECTION. SUCH AN EQUIVALENCY PROCESS COULD PROVIDE FOR FEDERAL FIELD AUDITS TO ASSURE THAT THE STATE PROGRAM SATISFIES THE INTENT OF THE SAFE DRINKING WATER ACT. IF AN AMENDMENT TO THE SAFE DRINKING WATER ACT IS REQUIRED TO ALLOW EPA TO DO THIS, THEN WE SUGGEST TO THIS SUBCOMMITTEE THAT SUCH A LEGISLATIVE CHANGE BE MADE.

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